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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/616,810	07/14/2000	Leslie G. Fitzmeier	05770-095001	6592

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EXAMINER

NORRIS, JEREMY C

ART UNIT

PAPER NUMBER

2627

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/616,810

Applicant(s)

FRITZEMEIER ET AL.

Examiner

Jeremy C. Norris

Art Unit

2827

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-106 is/are pending in the application.
- 4a) Of the above claim(s) 31-106 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5-11. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Group I species 7a in Paper No. 16 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Drawings***

The drawings are objected to because the sectional views are not properly cross-hatched (see MPEP 608.02). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: There are several instances where a co-pending application is referred to with a blank for the serial number. Please provide a serial number in each instance.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-30 are rejected under 35 U.S.C. 102(e) as being anticipated by US  
2002/0144838 A1 (hereafter Fritzemeier)

The applied reference has a common inventor with the instant application.  
Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Fritzemeier discloses, a composition (see paragraph 0074), comprising: a first salt of a first metal (copper); a second salt of a second metal (an alkaline earth metal); a third salt of a rare earth metal (see paragraph 0080), wherein at least one of the first, second and third salts comprises a trifluoroacetate and the composition has a total free acid concentration of less than about  $1 \times 10^{-3}$  molar (see paragraph 0075) [claim 1], wherein the composition has a total free acid concentration of less than about  $1 \times 10^{-5}$  molar [claim 2], wherein the composition has a total free acid concentration of less than about  $1 \times 10^{-7}$  molar [claim 3], wherein the composition has a mole ratio of fluorine to the second metal of at least about two (see paragraph 0078) [claim 4], wherein the composition has a mole ratio of fluorine to the second metal of from about two to about 18.5 (see paragraph 0078) [claims 5, 18], wherein the composition has a mole ratio of fluorine to the second metal of from about two to about 10 (see paragraph 0078) [claims 6, 19], wherein the first metal comprises copper and the second metal is

selected from the group consisting of barium, strontium and calcium (see paragraph 0082) [claims 7, 20], wherein the rare earth metal comprises yttrium (see paragraph 0082) [claims 8, 21], wherein the first metal comprises copper, the second metal comprises barium and the third metal comprises yttrium (see paragraph 0082) [claims 9, 22], wherein a ratio of copper atoms to barium atoms to yttrium atoms contained in the solution is about 3:2:1 (see paragraph 0082) [claims 10, 23], wherein the composition is disposed on a surface of a layer (see paragraph 0083) [claims 11, 24], wherein the layer comprises a material selected from the group consisting of a substrate, a buffer layer and a superconductor layer (see paragraph 0083) [claims 12, 25], further comprising water, wherein the composition has a water content of less than about 50 volume percent (see paragraph 0090) [claims 13, 26], wherein the water content is less than about 35 volume percent (see paragraph 0090) [claims 14, 27], wherein the water content is less than about 25 volume percent (see paragraph 0090) [claims 15, 28], wherein at least two of the first, second and third salts comprises trifluoroacetates (see paragraph 0109) [claims 16, 29], wherein each of the first, second and third salts comprise trifluoroacetates (see paragraph 0109) [claims 17, 30].

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 4,508,887	kohl,
US 4,639,298	Kreh et al.,
US 4,670,108	Kreh et al.,

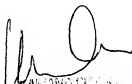
US 4,692,227 Spotnitz et al..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy C. Norris whose telephone number is 703-306-5737. The examiner can normally be reached on Mon.-Th., 9AM - 6:30 PM and alt. Fri. 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Talbott can be reached on 703-305-9883. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0725 for regular communications and 703-308-0725 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

JCSN  
June 25, 2003

  
RAYMOND C. NORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CERTIFICATION